

S
343.07
P10m
1969

STATE DOCUMENTS

SEP 30 1970

1969 MONTANA RETIREMENT LAWS

RELATING TO
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
GAME WARDENS' RETIREMENT SYSTEM
JUDGES' RETIREMENT SYSTEM
SOCIAL SECURITY



COMPILED FOR THE
BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
1712 NINTH AVENUE
HELENA, MONTANA 59601

Montana State Library



3 0864 1006 3800 9

PUBLIC EMPLOYEES' RETIREMENT ACT

CHAPTER 1

PURPOSE OF ACT—DEFINITIONS

- Section 68-101. Purpose of act—public employees' retirement system.
68-102. Definitions.

68-101. Purpose of act — public employees' retirement system. The purpose of this act is to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end providing a retirement system consisting of retirement compensation and death benefits.

68-102. Definitions. The following words and phrases used in this act, unless a different meaning is plainly indicated in the context, shall have the following meanings:

(a) "Retirement system" shall mean the "public employees' retirement system" created by this act.

(b) "Contracting city" shall mean any municipal corporation in the state which has elected to have all, or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose.

(c) "Contracting county" shall mean any county in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to counties, wherever in this act reference is made to "city," "contracting city," "city employee," "city clerk," "municipal corporation," or "legislative body" of any city or municipal corporation, such words shall be construed to read, respectively, as "county," "contracting county," "county employee," "county clerk," "county" or "board of county commissioners" of any county.

(d) "Public agency" shall mean any public district, local housing authority, or local authority, or public body whatsoever.

(e) "Contracting public agency" shall mean any public agency in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to public agencies, whenever in this act reference is made to "city," "contracting city," "city employee," "city clerk," "municipal corporation," or "legislative body" of any city or municipal corporation, such words shall be construed to read, respectively, as "public agency," "contracting public agency," "public agency employee," "secretary of governing board or analogous authorized employee of the public agency," "public agency," or "governing board or head of a public agency not managed by a board."

(f) "State employee" means any person employed by the state in any capacity whatever and whose salary is paid either by warrant of the state auditor and from the fees or income of any department or agency of the state, excepting all elective officers and persons directly appointed by the governor, who do not elect membership under the provisions of section 68-203, court commissioners, and members of any state board or commission who serve the state intermittently and are paid on a per diem basis (except as herein otherwise provided). "State employee" means further any employee under direct state supervision or functional state supervision as certified by the head of the state department concerned and approved by the board of administration of the public employees' retirement system, who is paid either fully or in part from federal funds, but is not subject to federal retirement system.

(g) "Head of department" means the head of any department, institution or branch of the state service which directly pays salaries out of its income or which prepares, approves, and submits salary statements of its employees to the state board of examiners, state auditor and state treasurer for payment.

(h) "Member" shall mean any person included in the membership of the retirement system set forth in section 68-202 and not excluded in section 68-203.

(i) "Board" shall mean the "board of administration" created in this act.

(j) "Retirement fund" shall mean the "public employees' retirement fund" created and established in section 68-405.

(k) "State service" shall mean service rendered as an employee, hired or appointed, of the state or its university or any of the colleges, schools, components or units thereof for the purpose of this act, service rendered as an employee of any contracting city for compensation, and, for the purposes of this act, a member shall be considered as being in "state service" only while he is receiving compensation from the state, or its university as aforesaid or the contracting city for such service, except as provided in subdivision (f) of section 68-501, or, while serving as a member of the legislative assembly or as lieutenant governor of the state of Montana whether or not he receives compensation from the state.

(l) "Prison employee" for the purpose of the retirement system, means persons appointed by the warden of the state prison or by the state board of prison commissioners.

(m) "Prior service" shall mean all state service rendered before the first day of July, 1945; and all state service rendered as an employee of a contracting city before the effective date of the city's participation in the retirement system, and allowable as provided in subdivision (h), section 68-501. Employees of a contracting city shall receive credit for prior service

only if the election of the contracting city to participate in the Public Employees' Retirement Act is filed with the board on or before, but not after July 1, 1950. Notwithstanding the sentence preceding, "prior service" as applied to a person, employed by the state, including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or as applied to a person who became a member prior to said amendments, because of a change in the employment status to a full-time basis, shall mean all state service rendered before the effective date of said membership. Prior service includes all prior service as a member of the legislative assembly or as lieutenant governor of the state of Montana. With respect to the optional retirement provisions set forth in section 68-901 (n), R.C.M. 1947, "prior service" shall mean all service rendered before July 1, 1945.

(n) "Continuous service" as applied to "prior service," except as to a member of the legislative assembly or a lieutenant governor of the state of Montana, shall mean all prior service, regardless of interruptions in such service, and as applied to service as a member shall mean uninterrupted employment in state service except as provided by subdivision (h) section 68-501, and, except that when for any cause whatever, a member discontinues state service but subsequently re-enters such service within three (3) years from the date of the discontinuance, such interruption shall not be deemed to break the continuity of service.

(o) "Beneficiary" shall mean any person in receipt of a pension, annuity, retirement allowance, death benefit or any other benefit provided by this act.

(p) "Compensation," except as applied to a member of the legislative assembly or a lieutenant governor of the state of Montana, electing the optional retirement provisions of section 68-901 (m), R.C.M. 1947, shall mean the remuneration paid in cash out of fund controlled by the state, the university or the contracting city, plus the monetary value as determined by the board of administration, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished by the state, the university, or the contracting city to a member, in payment of services.

(q) "Compensation earnable" by a member, except as applied to a member of the legislative assembly or a lieutenant governor of the state of Montana, shall mean the average monthly compensation as determined by the board upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, it being assumed that during any absence said member was in the position held by him at the beginning of the absence; and provided that compensation received by a member subsequent to July 1, 1952, in excess of five thousand dollars (\$5,000.00) per annum may be used as a basis of compensation for the purpose of this retirement system if (a) he contributes normal contributions on the excess of such salary subsequent to July 1, 1952, over five thousand dollars (\$5,000.00) to his individual account in the annuity savings fund and (b) he contributes three per cent (3%) of the excess of his salary subsequent to July 1, 1952, over five thousand dollars (\$5,000.00) to the pension accumulation fund of the retirement system.

(r) "Final compensation" shall mean the average annual compensation earnable by a member during any three (3) consecutive years upon which normal contributions have been made, said years to be chosen by the member. A member of the legislative assembly, a speaker of the house of representatives and a lieutenant governor of the state of Montana electing the optional retirement provisions of section 68-901 (m), R.C.M. 1947, may include as annual compensation all or any portion of the product of his compensation per day as a member, speaker or president of the senate multiplied by three hundred sixty (360) for the purpose of computing his final compensation if he otherwise complies with the provision of section 68-901 (m), R.C.M. 1947.

(s) "Regular interest" shall mean the average interest earned on investments made hereunder, compounded at each June thirtieth, subject to subdivision (j) section 68-501 plus such additional interest as the board may credit from year to year in accordance with the provisions of this act.

(t) "Normal contributions" shall mean contributions by members under the provisions of section 68-701 (g) to (n), both inclusive.

(u) "Additional contributions" shall mean contributions by members under the provisions of section 68-701 (k).

(v) "Accumulated normal contributions" shall mean the sum of all the normal contributions standing to the credit of a member's individual account, together with the regular interest thereon.

(w) "Accumulated additional contributions" shall mean the sum of all the additional contributions standing to the credit of a member's individual account, together with the regular interest thereon.

(x) "Accumulated contributions" shall mean accumulated normal contributions plus any accumulated additional contributions standing to the credit of a member's account.

(y) "Pension" shall mean payments for life derived from contributions made from the state controlled funds, or in the case of members from contracting cities from the funds of such cities, as provided in this act.

(z) "Annuity" shall mean payments for life derived from contributions made by a member as provided in this act.

(aa) "Retirement allowance" shall mean the pension plus the annuity.

(ab) "Death allowance" shall mean payments for life, or until re-marriage, or until the youngest child shall attain the age of eighteen (18) years, as provided in section 68-1101.

(ac) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the board, and interest at a rate to be annually determined by the retirement board compounded annually, subject to subdivision (j), section 68-501.

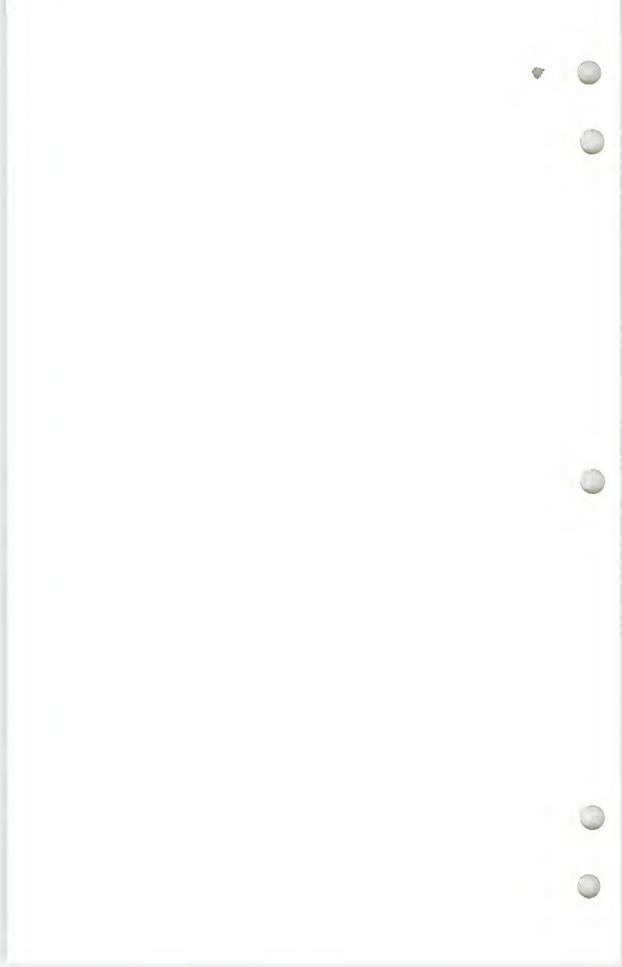
(ad) "Retirement" shall mean withdrawal from active service with a retirement allowance granted under the provisions of this act.

(ae) "Disability" and "incapacity for performance of duty" referred to herein as a basis of retirement, shall mean disability of permanent duration or disability of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(af) "Actuary" shall mean the actuary regularly and continuously employed on a full or part-time basis, by the board of administration.

(ag) "Benefit" shall be the retirement allowance, death allowance, death benefit or refund of accumulated contributions provided by this act.

(ah) "Fiscal year" shall mean any year commencing with July first and ending June thirtieth next following.



1. 2

3

4

5

6

CHAPTER 3

CONTRACTS BETWEEN MUNICIPAL CORPORATIONS, COUNTIES AND
PUBLIC AGENCIES

- Section 68-301. Contracts with municipal corporations—election by employee to participate.
68-302. Counties, by contract with board of administration, may participate.
68-303. Other public agencies in state may, by contract with board, participate.

68-301. Contracts with municipal corporations—election by employee to participate. After receiving from the board of administration, a quotation of the approximate contribution provided for in section 68-602, any municipal corporation in the state may participate in the public employees' retirement system, making its employees members of said system, by contract entered into between the legislative body of said municipal corporation and the board of administration of the said retirement system, subject to the provisions of this act. Said contract may include any provisions consistent with this act, necessary in the administration of the retirement system as it affects said employees and municipal corporation. The approval and termination of said contract shall be subject to the following provisions, in addition to the other provisions of this act:

(a) Said legislative body shall adopt a resolution giving notice of intention to approve said contract, which resolution shall contain a summary of the major provisions of the proposed retirement system. Such contract shall not be approved unless and until an election has been held to permit the employees proposed to be included in the retirement system to express, by secret ballot, their approval or disapproval of said retirement proposal. The ballot at such election shall include the summary of the retirement system as set forth in the foregoing resolution. The election shall be conducted in such manner as to permit the city employees proposed to be included in the system separately to express their approval or disapproval thereof. Said election shall be conducted in such manner as shall be prescribed by the legislative body of the city. Approval of the contract shall be by ordinance adopted by the affirmative vote of two-thirds ($\frac{2}{3}$) of the members of said legislative body, not less than twenty (20) days after the adoption of said resolution, or by an ordinance adopted by a majority vote of the electorate of the city voting thereon. The legislative body shall not include in the retirement system any of the city employees above mentioned, a majority of whose members voted to disapprove the proposed system.

(b) Said municipal corporation shall include under said contract all of its employees, except as exclusions in addition to the exclusion specified in this act, may be agreed to between it and the board of administration, said exclusions to be based on groups of employees such as by departments, by duties or by age, and not by individual employees. The board of administration, however, shall have the right to disapprove the exclusion of any group, if in its opinion said exclusion affects adversely the interest of said retirement system. Membership in the retirement system shall be compulsory for all employees included under said contract.

(c) Errors in said contract may be corrected through amendments ap-

68-404. Termination of membership. Each member and each person retired shall be subject to all provisions of this act and to the rules and regulations adopted by the board of administration. Any person who is retired and any person who is credited with less than ten (10) years of public service and who renders less than five (5) years of service in any period of ten (10) consecutive years, or withdraws more than one-fourth ($\frac{1}{4}$) of his normal contributions, ceases to be a member.

68-405. Fund abolished. The "public employees' retirement fund" is hereby abolished. All contributions paid into the retirement system as the employer agency portion from the state, counties, cities, towns, school districts or other public agencies or political subdivisions shall constitute a pooled or mingled account in the agency fund for payment of all claims made and approved. Whenever the words "retirement fund" appear in this act they shall be taken to mean the public employees' retirement account in the agency fund.

CHAPTER 5

BOARD OF ADMINISTRATION—POWERS AND DUTIES

Section 68-501. Board of administration.

68-501. Board of administration. The board of administration shall consist of five (5) members appointed by the governor, three (3) of which members shall be public employees and shall be members of the retirement system, and two (2) of which shall be members at large. Terms of office shall be for five (5) years provided, however, that those first appointed after this act takes effect shall be for terms, respectively, of one (1), two (2), three (3), four (4), and five(5) years but their successors shall hold office for terms of five (5) years; provided not more than one (1) employee member of the retirement board shall be an employee of the same department, bureau or agency of the state or contracting public agency. Members of the board shall be paid their actual and necessary expenses and those members of the board who are not members of the public employees' retirement system shall be entitled to receive in addition to actual and necessary expenses compensation at the rate of ten dollars (\$10.00) per day.

The attorney general is hereby designated legal counsel for the board.

(a) Vacancy on board—how filled. Any vacancy occurring ninety (90) days or more before the expiration of the term of any member of the retirement board shall be filled by appointment by the governor. The person thus appointed shall serve for the remainder of the unexpired term.

(b) The board may establish such rules and regulations as it deems proper, within the limitations of this act and for its proper administration, operation and enforcement. The board shall elect one (1) of its members president, and shall appoint and fix the compensation of a secretary who shall have the power to administer oaths, and other necessary employees. It shall maintain its office in the city of Helena. A quorum of the board shall be three (3) members. The board may appoint a committee of one or more of its members, which shall have authority to perform routine acts, such as retirement of members and fixing of retirement allowances, approval of death claims and correction of records necessary in the administration of the system in accordance with the provisions of this act and rules and regulations of the board. All expenses of the administration of this act in excess of amount provided by the one dollar (\$1.00) membership fee shall be a charge on the appropriation made from the general fund of the state.

(c) The board shall determine who are employees within the meaning of this act and shall be the sole authority and judge under this act as to the conditions under which persons may be admitted to and continue to receive benefits under the retirement system, and shall have exclusive control of the administration and investment of the fund. As soon as practical after the close of each fiscal year, the board shall file with the governor a report of its work for such fiscal year.

(d) Subject to the following and to all other provisions of this act, and such rules and regulations as it may adopt in pursuance thereof, the board shall determine and may modify allowances for service and disability.

(e) The board of administration shall fix and determine how much service rendered in any fiscal year shall be the equivalent of a year of service and parts thereof, but shall credit one (1) year for two hundred and fifty (250) or more days of service rendered by employees on a per diem basis and one (1) year for ten (10) months or more of service rendered by employees on a monthly basis, but not more than [one] (1) year for all service in any one fiscal year. In determining the credit to be granted for service rendered on a part-time basis, for purposes of calculating retirement allowances, the service shall be reduced to a full-time basis according to the service required, in the next preceding sentence, for credit for one (1) year of service. In calculating benefits based on service so determined, except in calculating the additional pension provided in subdivision (g) of section 68-901 compensation earnable shall be taken as the compensation which would be earnable if the employment had been on a full-time basis, and with a compensation derived by multiplying the member's compensation by ratio of full time to the time he was required by his employment to engage in his duties. In calculating the credit to be granted for service rendered on a part-time basis, for purposes of determining qualifications for retirement, and of calculating benefits payable upon death before retirement, the service required in this paragraph for credit for a year of service shall not be used, but instead, a year of service shall be credited for each year during which the member was employed throughout the year on a part-time basis and was engaged in his duties the full amount of time he was required by his employment to be so engaged. Credit for fractional years will be granted to the extent of the fraction derived by dividing the time during which the member was engaged in his duties within the year, by the time he was required by his employment to be so engaged. A member of the legislative assembly and a lieutenant governor of the state of Montana shall, for purposes of calculating retirement allowances and benefits be credited with a year of service for each year so served. Credit for fractional years shall be granted on the basis of the fraction derived by dividing the number of days so served by 250.

(f) Time during which a member is absent from public service without compensation shall not be allowed in computing service; except that time during which a member is a member of the legislative assembly or a lieutenant governor of the state of Montana shall be considered as time spent in public service for the purpose of qualification for and calculation of all benefits provided for in this act; except that time during which a member is absent from public service by reason of having been ordered on duty with the armed forces of the United States, or by reason of voluntary service by the member in said forces or on ships operated by or for the United States government, or by members assigned directly to the Department of War or Defense for duties pursuant to the national defense efforts, having been granted a leave of absence by the agency, department of state, county or city under which said member is employed for such purpose, either during a war

involving the United States as a belligerent or in any other national emergency, and for ninety (90) days thereafter shall be considered as time spent in public service, for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits unless the member elects to contribute and contributes under the retirement system. Any member so absent and until his return within the said ninety (90) days may resign from the system. Any member so absent shall have the right to contribute to said system, either during his service with the armed forces of the United States or in the merchant marine of the United States, and ninety (90) days thereafter or upon his return to the state service, at times and in a manner fixed by the board of administration, amounts equal to the contribution which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence. If he does so contribute he shall receive credit for public service for such time in the same manner as if he had not been absent from public service. Whenever a member elects to continue his contributions, the state or the contracting city, or county or other agency shall thereupon contribute an amount equal to that which it would have contributed under section 68-1307 or under the contract between the board and the legislative body, as the case may be, if the member had not been absent from state service.

Any member so absent or any member absent from state service by reason of having been ordered by an authorized official of the state of Montana or the United States, to duties outside state service shall be paid upon his request, his accumulated contributions. Such payment shall terminate any election by said member under this section to contribute.

Time during which a member is absent from public service by reason of injury or illness determined within one (1) year after the end of such absence as arising out of and in the course of his employment, shall be considered as spent in public service, for the purpose of qualification for retirement and death benefits, but not for the calculation of retirement benefits, except as he received compensation, as defined in this act and as distinguished from disability indemnity under the Workmen's Compensation Act during the absence, and then only to the extent of compensation received.

(g) Each employee shall file with the board of administration such information affecting his status as a member of the retirement system as the board may require.

(h) Credit for prior service shall be granted to each person other than persons who are employees of the university or of a contracting city at the time of becoming members of the retirement system, who has rendered such service as defined in this act, and who has become a member of the retirement system on January 1, 1946, or within three (3) years after last rendering prior service. Credit for prior service shall be granted to each person who is employed by the university at the time of becoming a member of the retirement system regardless of whether he has been retired under the system prior to the effective date hereof, who has rendered such service as defined in this act, and who has become a member of the retirement system on January 1, 1946, or within three (3) years after last rendering prior service.

Credit for prior service shall be granted to each person who is employed by a contracting city at the time of becoming a member of the system, who has rendered such service as defined in this act, and who has become a member of the retirement system within three (3) years after last rendering prior service. Notwithstanding the three (3) sentences next preceding, credit for prior service shall be granted to each person employed by the state including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or who became a member prior to said amendments, because of a change in status to a full-time basis. The credit for prior service to be granted persons employed by a contracting city who are included under the retirement system shall be established by contract between the board and the legislative body of such city; and such credit as may be granted to a person shall be in the form of a percentage, not to exceed the analogous percentage applicable to employees of the state, for each year of prior service. Prior service so credited shall be the basis for a retirement allowance or benefit as provided in this act only if the membership in the retirement system continues unbroken until retirement or retirement allowance or until the granting of such other benefit; provided, that termination of membership by withdrawal of accumulated contributions followed by the redeposit of such contributions upon re-entrance into public service as herein provided shall not constitute a break in membership, but this section shall not be construed to entitle any person to credit as prior service for time during which he was not in public service as defined in this act.

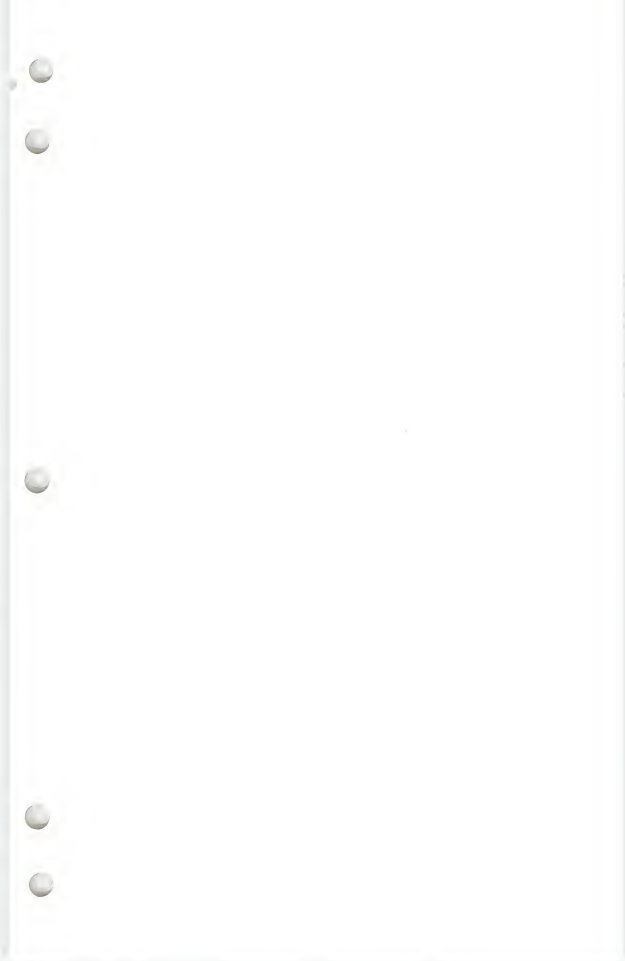
Credit for any prior service, not previously granted, shall be granted to a member upon request for retirement provided that the member has a total of not less than ten (10) years of creditable state service of which not less than three (3) years have been as a contributing member of the retirement system and the retirement allowance does not include credit for all state service prior to July 1, 1945, or in the case of a contracting city prior to the date of the contract, or July 1, 1947, whichever is earlier. Credit for prior service shall be granted to a person who has served as a member of the legislative assembly or as a lieutenant governor of the state of Montana. Proper certification of such service must be furnished.

(i) The management and control of the retirement system shall be vested in the board of administration, and it shall exercise the following powers and perform the following duties:

(j) The board of administration shall keep in convenient form such data as shall be necessary for the actuarial valuation of the retirement fund created by this act. On July 1, 1946, and at the end of every two-year period thereafter, it shall cause to be made an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries under the provision of this act, and shall further cause to be made an actuarial valuation of the assets and liabilities of the public employees' retirement fund herein created, and from time to time shall determine the rate of interest being earned on the said retirement fund. Upon the basis of any or all of such investigation, valuation, and determination, said board

shall adopt such mortality, service and other tables and such interest rate, in lieu of the interest rate specified herein, or any of such items as it shall deem necessary, and shall make such revision in rates of contributions of members as it may deem necessary to comply with the provisions of section 68-701. No adjustment shall be included in the new rates for time prior to the effective date of such revision.

(k) The board shall credit contributions of members of the state and contracting cities with interest at the rate being used under the system on the effective date hereof, compounded each June 30, subject to the foregoing subdivision (j) of section 68-501. At the end of each fiscal year, beginning with the second fiscal year of the operation of the retirement



- 68-705. Deduction of members' contributions from city payrolls.
- 68-706. Voluntary additional contributions by member.
- 68-707. Annual membership fee.
- 68-708. Withdrawal of contributions by member terminating service before retirement.
- 68-709. Redeposit of withdrawn contributions--reinstatement of membership.
- 68-710. Dormant accounts transferred to pension accumulation fund.

68-701. Management of retirement fund. The retirement fund shall be managed as follows:

- (a) The board of administration shall have exclusive control of the administration of said fund except as otherwise provided.
- (b) The said fund shall be invested by the state board of land commissioners as part of the long term investment fund.
- (c) The board of administration shall deposit monthly in the state treasury all amounts received by it as provided in this section and section 68-1307.
- (d) The state treasurer shall be custodian of the retirement fund, subject to the exclusive control of the board of administration as to the administration thereof and the state board of land commissioners as to the investment thereof. All payments from said fund shall be made by him only upon vouchers signed by two (2) board members designated by the board of administration. A duly attested copy of a resolution of the board of administration designating such persons and bearing on its face specimen signatures of such persons shall be filed with the treasurer as his authority for making payments upon such vouchers. No voucher shall be drawn unless it has previously been authorized by resolution of the board of administration.
- (e) Interest earned on any cash deposit in a bank by the state treasurer and income on other assets constituting a part of the said fund shall be paid into said fund as received. Income, of whatever nature, earned on the retirement fund during any fiscal year, in excess of the interest credited to contributions during said year shall be retained in said fund as a reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.
- (f) Except as herein provided, no member and no employee of the board of administration shall have any interest direct, or indirect, in the making of any investment, or in the gains or profits accruing therefrom. And no member or employee of the said board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits, nor shall any such member or employee in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an endorser or surety as to, or in any manner an obligor for investments by the board.

68-702. Normal rate of contribution. The normal rate of contribution of all members shall be equal to five and seventy-five one hundredths per cent (5.75%) of the gross compensation earned.

68-703. Repealed—Chapter 227, Laws of 1967.

68-704. Deduction of members' contributions from state salaries. The board of administration shall certify to the head of each office or department of the state and to the registrar of the university the normal rate of contribution as provided in this act for each member in such office, department, or the university, respectively. The head of each office or department of the state shall apply such rate of contribution to the compensation of each member, and shall certify to the state auditor on each and every payroll the amount to be contributed and shall furnish immediately to the board of administration a copy of each and every such payroll; and each such amount shall be deducted by the head of each office or department and shall be remitted to the board. The registrar of the university shall apply the rate of contribution certified to him by the board to the compensation of each member employed by the university and the contributions so determined shall be deducted by the registrar of the university from the compensation of each such member; each such amount shall be remitted to the board and the registrar of the university shall furnish to the board a copy of each and every salary roll and payroll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by members during the period covered by such payment, except their claims to the benefits to which they may be entitled under the provisions of this act.

68-705. Deduction of members' contributions from city payrolls. The board of administration shall certify to the city clerk, or other officer designated by the legislative body, of each contracting city the rate of contribution as provided in this act for each member included under the retirement system respectively. The city clerk, or other officer, shall apply the rate of contribution certified to him by the board to the compensation of each member included in the retirement system and the contribution so determined shall be deducted by the city clerk, or other officer, from the compensation of each such member; each such amount shall be remitted to the board and the city clerk or other officer, shall furnish to the board a copy of each and every salary roll and payroll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims to the benefits to which they may be entitled under the provisions of this act.

68-706. Voluntary additional contributions by member. Subject to the rules and regulations to be established and promulgated by the board of administration, any member may elect to contribute at rates in excess of those provided for in sections 68-704 and 68-705, for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the state or contracting city any additional financial obligation. The provisions of subdivision (f) and (g) of section 68-203 shall apply also to additional contributions. The board, upon application shall furnish to such member information concerning the nature and amount of additional benefits to be provided by such additional contributions.

68-707. Annual membership fee. In addition to the contributions heretofore provided to be paid by employees who are members of the retirement system created by this act, every such employee shall pay an annual membership fee of one dollar (\$1) which amount, together with other moneys appropriated for that purpose, shall be used for the support of the board of administration.

68-708. Withdrawal of contributions by member terminating service before retirement. Should the state service of a member with less than ten (10) years of service be discontinued otherwise than by death or retirement, he shall after the date of discontinuance, be paid such part of his contributions as he demands. The board may, in its discretion, withhold for not more than one (1) year after a member last rendered state service, all or part of his contributions if after a previous discontinuance of state service he withdrew all or part of his contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in section 68-709.

Any member with ten (10) or more years of service, whose service is discontinued otherwise than by death or retirement, shall have the right to elect within ninety (90) days after such termination of service, whether to allow his accumulated contributions to remain in the retirement fund or to withdraw his accumulated contributions. Upon the qualification for retirement by reason of age or disability of a member with ten (10) or more years of service who has elected to allow his accumulated contributions to remain in the retirement fund after his service has been discontinued otherwise than by death or retirement, he shall receive a retirement allowance computed in accordance with the provisions of section 68-901.

68-709. Redeposit of withdrawn contributions—reinstatement of membership. Any member may redeposit in the retirement fund, in one (1) sum or in not to exceed twelve (12) monthly or twenty-four (24) semi-monthly payments, an amount equal to that which he withdrew therefrom at the last termination of his membership plus an amount equal to the interest which would have been credited to his account had the member not withdrawn his contributions upon termination of membership, subject to minimum monthly or semi-monthly payments as fixed by the board of administration. If a member, upon re-entering the retirement system after a termination of his membership, does not elect to make or, having so elected, subsequently

does not make such redeposit, he shall re-enter as a new member without credit for any service except the prior service credited to him before said termination but if he does make such redeposit his membership shall be the same as if unbroken by such last termination. Regardless of whether such redeposit is made, the documents held by the retirement system as executed by said member prior to termination of membership shall be held by the system for the same purposes as prior to said termination, and beneficiaries nominated in such documents shall continue unchanged until changed as provided herein.

68-710. Dormant accounts transferred to pension accumulation fund.

The board may in its discretion transfer the savings account of a member to the pension accumulation fund if the account has been dormant for a period of ten (10) years provided that no right of the member shall be jeopardized by such transfer and the savings account shall be transferred to the member's name upon subsequent re-entry to membership.

CHAPTER 8

RETIREMENT—COMPULSORY—VOLUNTARY

Section 68-801. Voluntary service retirement.

68-801. Voluntary service retirement. (a) Retirement of a member for service shall be made by the board of administration upon his attaining the age of fifty-five (55) years or more and upon his completion of ten (10) or more years of public service credited under this act and the filing of his written application to the board, subject to the provisions of section 68-901; and provided, however, that the service retirement allowance shall commence on the day following the member's last day of state service or on the first day of the month in which his application is filed with the board of administration, whichever is later.

(b) Notwithstanding any other provision of this act, any person who has been retired for service (as distinguished from disability) under the provisions of this act may be employed in a state service in accordance with the laws governing such service in the same manner as a person who has not been so retired.

(c) Any person so employed shall be considered as reinstated from retirement and his retirement allowance shall be canceled forthwith. Upon subsequent retirement he shall be entitled to receive a benefit, as provided in section 68-901, which shall be based upon his creditable service accumulated at the time of his previous retirement plus any creditable service accumulated subsequent to his re-employment.

68-802. Compulsory retirement. Any member forced to retire at age sixty-five (65) or over, not having accumulated ten (10) or more years of public service credited under the Montana public employees' retirement system may, by filing his written application with the board, elect to receive a service retirement allowance subject to the provisions of section 68-901.

CHAPTER 9

SERVICE AND DISABILITY RETIREMENT ALLOWANCE

Section 68-901. Service retirement allowance.

68-901. Service retirement allowance. A member who has reached his sixtieth birthday upon retirement from service is entitled to receive a service retirement allowance which shall consist of either an allowance as provided in subsections (a) through (f) of this section, or an allowance as provided in subsection (g) of this section at the option of the member:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

(b) A pension, purchased by the contributions of the state, or the contracting city, equal to one (1) that portion of the annuity purchased by the accumulated normal contributions of the member, or (2) one quarter ($\frac{1}{4}$) of his average final compensation provided his total state service is at least thirty-five (35) years, otherwise, a pension which shall be one-hundred fortieth ($\frac{1}{140}$) of his average final compensation multiplied by the number of years of state service; which ever is greater.

(c) An additional pension, purchased by the contributions of the state, for members other than persons who are employees of the university at the time of becoming members, and members employed by a contracting city. Such additional pension shall be equal to one-seventieth ($\frac{1}{70}$) of the member's final compensation, multiplied by the number of years of prior service except that if a member retires before attaining the age of sixty (60) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty (60) will purchase at the actual age of retirement.

(d) If a member retires before attaining the age of sixty (60) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this section as deferred to age sixty (60) will purchase at the actual age of retirement.

(e) An additional pension, purchased by contributions of the state, for members who are also employees of the university at the time of becoming members, said additional pension to accrue from the date of retirement under the system regardless of whether said retirement was prior to the effective date hereof. Such additional pension shall be equal to one-seventieth ($\frac{1}{70}$) of the average annual compensation earnable by him during the three (3) years preceding retirement, multiplied by the number of years of prior service credited to him, except that if a member retires before attaining the age of sixty (60) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty (60), will purchase at the actual age of retirement. If, however, a member who is employed by the university at the time of becoming a member, shall not have rendered state service before January 1, 1946, his additional pension shall be based upon one-seventieth ($\frac{1}{70}$)

he was originally retired, but which, subject to such limitation, shall equal, when added to the compensation earned by him, the amount of his compensation at the time of his retirement.

68-1003. Effect of refusal of beneficiary to submit to medical examination. Should any disability beneficiary refuse to submit to medical examination, his pension may be discontinued until his withdrawal of such refusal, and should such refusal continue for one (1) year his retirement allowance may be canceled.

68-1004. Payment in case of cancellation of disability allowance. Should the retirement allowance of any disability beneficiary be canceled for any cause other than re-entrance into the state service, he shall be paid the amount of his accumulated contributions at the time of his retirement for disability, with interest, less the total retirement allowance received.

68-1005. Optional modification of retirement allowance. Until the first payment on account of any retirement allowance is made, and subject to the conditions that, if he die after retirement and within thirty (30) days from the date upon which his election or changed election is received at the office of the retirement system in Helena, then said election is void and of no effect, and the death shall be considered as that of a member before retirement. A member or a beneficiary may elect, or revoke or change a previous election prior to the approval of the previous election, to receive the actuarial equivalent of his retirement allowance as of the date of retirement, in a lesser retirement allowance, payable throughout life with one of the following options:

(a) Option 1. If he dies before he receives in annuity payments provided for in section 68-901, the amount of his accumulated contributions as it stood at his retirement, the balance of such accumulated contributions shall be paid to his estate or to such person, having an insurable interest in his life, as he shall nominate by written designation duly executed and filed with the board of administration.

(b) Option 2. Upon his death, his lesser retirement allowance shall be continued throughout the life of and paid to such persons, having an insurable interest in his life, as he nominates by written designation duly executed and filed with the board of administration at the time of his retirement.

(c) Option 3. Upon his death, one-half of his lesser retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he nominates by written designation duly executed and filed with the board of administration at the time of his retirement.

(d) Option 4. Such other benefit or benefits shall be paid, either to the beneficiary or to such other person or persons as he nominates, as, together with such lesser retirement allowance, are the actuarial equivalent of his retirement allowance, and shall be approved by the board of administration.

CHAPTER 11

DEATH BENEFITS

Section 68-1101. Death benefit.

68-1101. Death benefit. Upon the death before retirement of a member while in the state service, or within four (4) months after the discontinuance of state service, or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from the discontinuance of state service, the retirement system shall be liable for a death benefit, which death benefit shall be paid to such person or other legal entity as he has nominated by written designation duly executed and filed with the retirement board or, if no beneficiary shall be nominated, then pursuant to the provisions of section 68-1201; provided, however, that death benefits shall not be payable to the beneficiary of a member who (a) has elected a joint life annuity option as provided in section 68-1005, or (b) who has received a disability retirement allowance as provided for in paragraphs (j) through (l) of section 68-901, for a period of four (4) months immediately preceding death. Such death benefit shall consist of:

- (a) His accumulated contributions, and in addition thereto,
- (b) An amount, provided from contributions by the state, or by a contracting city, which shall be equal to one-twelfth (1/12th) of the annual compensation earnable by the deceased during the twelve (12) months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed fifty per centum (50%) of such compensation.
- (c) A member, or a beneficiary after death of a member, may elect, by written designation, duly executed and filed with the board of administration to have the death benefit provided in clauses (a) and (b) paid in monthly installments, fixed in number or amount, all subject to such rules and regulations as the board may adopt. Regular interest shall be credited on the unpaid balance of such benefit, at rates then in use under the system as adopted by the board from time to time.
- (d) If compensation is awarded by the industrial accident board of the state of Montana by reason of a finding that the member's death resulted from injury or disease arising out of or in the course of employment, the death benefit payable hereunder shall be limited to a refund of the member's accumulated contributions. In any case where the industrial accident board makes a determination that death of a state employee resulted from injury or disease arising out of and in the course of employment and pays compensation therefor, the industrial accident board shall certify its findings and determination to the board of administration of the public employees' retirement system.
- (e) Survivorship provision. In lieu of the benefits provided in (a) and (b) above, if the deceased member is qualified by reason of service for a retirement benefit, the beneficiary; if a natural person of legal age, may elect to receive a monthly life annuity. Said monthly life annuity is to be based

on the beneficiary's attained age at the time of the deceased member's death and to be calculated from an amount equal to the required reserve for the retirement allowance earned by the deceased member to the date of his death; and provided that this provision be retroactive for all members who had an option for a lesser retirement allowance filed in the retirement system office at the time of their death.

(f) The beneficiary shall have ninety (90) days after receipt of notice from the board of administration that he is entitled to a death benefit, to make the elections provided for in paragraphs (c) and (e) above.

CHAPTER 12

BENEFITS TO WHOM PAID

Section 68-1201. Nomination of beneficiary—payment to next of kin without probate—affidavit required—case of minor—funeral expenses—payment of amount due on effective date.

68-1201. Nomination of beneficiary—payment to next of kin without probate—affidavit required—case of minor—funeral expenses—payment of amount due on effective date. (a) The nomination by a member of a beneficiary under the retirement system may be revoked at the pleasure of the member or beneficiary making the nomination and a different beneficiary nominated by a written instrument duly executed and filed with the board. If no beneficiary shall be nominated or if the estate shall be the beneficiary, and if said estate would not be probated, if no amount were due from the retirement system, all of the said amount due, including retirement allowances accrued but not received prior to death, shall be paid directly without probate to the surviving next of kin of the deceased, or the guardians of said survivor's estate, share and share alike, payment to be made in the same order in which the following groups are listed:

1. Husband or wife, or
2. Children, or
3. Father and mother, or
4. Grandchildren, or
5. Brothers and sisters, or
6. Nieces and nephews.

(b) No payment shall be made to persons included in any of said groups if at the date of payment there be living persons in any of the groups preceding it, as listed, and payment to the persons in any group, upon receipt from said persons of an affidavit upon a form supplied by the retirement board, that there are no living individuals in the groups preceding it and that the estate of the deceased will not be probated, shall be in full and complete discharge and acquittance of the board and system on account of said death. If any person entitled to a benefit from the system shall be a minor who has no guardian of his estate, said benefit not to exceed five hundred dollars (\$500.00) may be paid to the person entitled to the custody of a minor to hold for the minor, upon the written statement, duly acknowledged and verified, of such person that the total estate of the minor does not exceed one thousand dollars (\$1,000.00) in value, and such payment shall be full and complete discharge and acquittance of the board and system. Such persons shall account to the minor for the money when the minor reaches the age of majority.

(c) The retirement board, in the event that the whereabouts of the nominated beneficiary cannot be determined, or in the event that the beneficiary be the estate of the deceased person, or if no beneficiary be nominated, may pay to the undertaker who conducted the funeral, or to any person or organization who has paid said undertaker from said person's or organization's own funds, in its discretion all or a portion of any amount payable under the retirement system, but not to exceed the funeral expenses of such deceased person or the portion of such expenses paid by said person or organization as evidenced by the sworn itemized statement of the undertaker and by such other documents as the board may require. Said payment shall be full

and complete discharge and acquittance of the board and system up to the amount so paid, anything in this act to the contrary notwithstanding.

(d) Any amount due from the retirement system on the effective date hereof, because of death, may be paid in accordance with the provisions of this section, but only persons living on said effective date shall receive any part of said amount due.

CHAPTER 13

MISCELLANEOUS PROVISIONS

- Section 68-1301. Retirement benefits not modified by compensation insurance—subrogation provided for.
- 68-1302. Monthly payment of allowance.
- 68-1303. Retirement fund exempt from execution, garnishment, attachment or assignment.
- 68-1304. Right to retirement allowance guaranteed.
- 68-1305. Estimate of age and service.
- 68-1306. Retired members not eligible for retirement allowance while in state service.
- 68-1307. Allocation of money to public employees' retirement fund—disbursement procedure—contributions under this section, how applied.
- 68-1308. Maximum salary considered.
- 68-1309. Transfer from one fund to another.
- 68-1310. Appropriation for administrative expense.
- 68-1311. Budget act not applicable.
- 68-1312. Act, how cited.
- 68-1313. Adjustments authorized.
- 68-1314. State departments to pay to public employees' retirement fund.
- 68-1315. Budget act not applicable.
- 68-1316. State employees paid from federal funds—national guardsmen.
- 68-1317. Reciprocity of credits.
- 68-1318. Eligibility for benefits.
- 68-1319. Transfer of credits.
- 68-1320. Determination of refund and benefits by last system to which employee contributed.

68-1301. Retirement benefits not modified by compensation insurance—subrogation provided for. (a) If an injury, known to result in the retirement of and/or the death of a member of the retirement system is the proximate consequence of the act of a person other than his employer, the board shall have the right to recover from said person, on behalf of the retirement system, an amount which shall be the actuarial equivalent of the benefits which are provided by contributions of the state and for which the retirement system shall be liable because of said injury and/or death. The board of administration may do any and all things necessary to recover on behalf of the retirement system any and all amounts which the board might recover from employees, or from third persons under any provision of this act, any other provisions of law of the state of Montana, including any provision by which an insurer might recover by subrogation, or otherwise, including the right to commence and prosecute actions, to file liens, to intervene in court proceedings, or to compromise claims before or after commencement of suit, except that any claim in favor of the retirement system against such third person, may be compromised only in such amount as may be approved by a person duly authorized by the board for such purpose. The agreed cost of such service and the expense incidental thereto is a proper charge against the fund out of which the compensation of an injured state employee is paid; and such cost and expense shall be reimbursed to the retirement system by the contracting city by which an injured member is employed.

(b) Any amount recovered by way of subrogation by the employer, workmen's compensation insurer or retirement system shall be applied first to the amounts which the employer or its insurer shall have paid or become obligated to pay, and second, on the amounts which the retirement system shall have paid or become obligated to pay.

(c) Amounts by which retirement and death allowances are reduced under the provisions of section 68-1201 and net amounts recovered from third

persons under the provisions of this section, shall be paid by the retirement system to the fund out of which the compensation of the injured member is paid, or to the contracting city which pays the compensation of the injured member as the case may be.

68-1302. Monthly payment of allowance. A pension, an annuity or retirement allowance granted under the provisions of this act shall be payable in equal monthly installments but a smaller pro rata amount may be paid for part of a month when the pension, annuity or retirement allowance begins after the first day of the month or ends before the last day of the month.

68-1303. Retirement fund exempt from execution, garnishment, attachment or assignment. The right of a person to a pension, an annuity or a retirement allowance to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this act and the moneys in the fund created under this act shall not be subject to execution, garnishment, attachment, state or municipal taxes, or any other process whatsoever, and shall be unassignable except as in this act specifically provided.

68-1304. Right to retirement allowance guaranteed. After a member has qualified as to service and disability for retirement for disability, or as to age and service, for retirement for service, nothing shall deprive him of the right to a retirement allowance as determined under this act. Such retirement allowance and qualification therefor, shall be subject otherwise to the provision of this act.

68-1305. Estimate of age and service. If it shall be impracticable for the board of administration to determine from the records the length of service, the compensation or the age of any members, or if any member refuses or fails to give the board a statement of his state service, his compensation or his age, the said board may estimate, for the purposes of this act, such length of service, compensation or age.

68-1306. Retired members not eligible for retirement allowance while in state service. No person who has been retired for service or disability shall be paid any retirement allowance during the time which he receives compensation for service rendered by him to the state or to a contracting city after the date of his retirement.

68-1307. Allocation of money to public employees' retirement fund—disbursement procedure—contributions under this section, how applied. (a) During the biennium for which appropriations of money are made by this legislative assembly, there shall be paid monthly by each department, board, commission, bureau, or other agency of the state into the public employees' retirement fund out of moneys appropriated from the state general fund, a sum equal to four per cent (4%) of the total compensation paid members of the retirement system. In computing the amount of compensation

upon which said four per cent (4%) shall be reckoned, there shall be included a sum equal to the amount of compensation which would have been paid to members of the system who elect to continue and do continue their contributions to the system and who are absent with the armed forces of the United States, so long as such absence shall be continued.

(b) Each department, board, commission, bureau or other agency of the state shall certify to the state auditor at the end of each month the total amount of compensation paid members of the retirement system, including that which would have been paid to members who are absent in the armed forces of the United States. The state auditor shall thereupon draw a warrant upon the state treasurer for said four per cent (4%) of compensation contributed by the state. Said warrant shall be drawn on funds appropriated to each department, board, commission, bureau or other agency of the state to the credit of the public employees' retirement fund and the state treasurer shall deposit the amount thereof in said retirement fund.

(c) Contributions made to the retirement system under this section shall be applied by the board of administration to meet the state's obligations under the system in such order and amount as said board shall determine; provided, however, that said contributions shall be first applied to the liability accruing because of state service rendered during such year and on account of pensions provided for in section 68-901, such amounts to be determined by actuarial valuation as computed by the actuary of the said board.

(d) Each department, board, commission, bureau or other agency of the state under whose supervision there are state employees who are paid either fully or in part from federal funds, but who are not subject to the federal retirement system, shall certify to the state auditor at the end of each month the total amount of compensation paid such employees who are members of the retirement system; and the state auditor shall thereupon draw a warrant upon the state treasurer in the amount of four per cent (4%) of the compensation of such employees, regardless of whether such compensation is partly or entirely derived from federal funds. Such warrant shall be drawn on funds appropriated to such department, board, commission, bureau or other agency of the state to the credit of the public employees' retirement fund and the treasurer shall deposit the amount thereof in said retirement fund.

68-1308. Maximum salary considered. From and after July 1, 1955, for the purpose of computing the total amounts of compensation of members under the provisions of section 68-1307, all compensation shall be used.

68-1309. Transfer from one fund to another. Any fund out of which payments are made under the provisions of this act may be reimbursed to the extent of such payments by transfer of a sufficient sum for such reimbursement from another fund or funds under the control of the same disbursing officer. The disbursing officer shall certify to the state auditor amount or amounts to be thus transferred, the fund or funds from and to which the transfer is to be made, and the auditor shall thereupon make the transfer as directed in the certificate.

68-1310. Appropriation for administrative expense. Out of any money in the state treasury not otherwise appropriated there is hereby appropriated the sum of \$35,000.00 for the purpose of defraying the administrative expense of the act, including the salary of the secretary and other employees and the necessary expenses of the board of administration. The above appropriation is for the coming biennium only. Thereafter, it shall be the duty of each and every state board, commission, department and institution whose employees are subject to the retirement system created by this act to include in their budget and request for legislative appropriations, an amount necessary to defray the state's part of the costs of this act for employees in their respective departments, and to the end that the legislature may make definite appropriation for the cost incurred by each board, department or institution whose employees are within the retirement system created by this act.

68-1311. Budget act not applicable. This act shall be valid and effective despite any provisions in the State Budget Act to the contrary.

68-1312. Act, how cited. This act may be cited as the Public Employees' Retirement Act.

68-1313. Adjustments authorized. If more or less than the correct amount of contribution required by this act of members, the state, or contracting city, is or has been paid, proper adjustment shall be made in connection with the subsequent payments, or such adjustments may be made by direct cash payments between the member, state or contracting city, in connection with whom the error was made, and the board of administration; adjustments to correct any other errors in payments to or by the board of administration may be made in the same manner.

68-1314. State departments to pay to public employees' retirement fund. All departments, boards, bureaus, commissions, and other agencies of the state shall pay to the public employees' retirement fund out of moneys heretofore appropriated to them and unexpended during the biennium July 1, 1945, to July 1, 1947, or hereafter appropriated to them a sum equal to the percentage of total compensation paid members of the retirement system and designated in the provisions of sections 68-101 to 68-1313.

JUDGES' RETIREMENT ACT

CHAPTER 11

MISCELLANEOUS PROVISIONS RESPECTING COURTS
AND JUDICIAL OFFICERS

- Section 93-1107. Judges' retirement system—definitions.
 93-1108. Montana judges' retirement system.
 93-1109. Montana judges' retirement board.
 93-1110. Administrative expenses.
 93-1111. Payments into the Montana judges' retirement fund—investment.
 93-1112. Rules and regulations—actuarial data.
 93-1113. Membership.
 93-1114. Service allowance.
 93-1115. Payments by contributors.
 93-1116. Contributions by the state of Montana.
 93-1117. Vesting of proportional retirement.
 93-1118. Retirement allowance.
 93-1119. Disability retirement allowance.
 93-1120. Involuntary retirement allowance.
 93-1121. Penalty retirement allowance.
 93-1122. Refunds in case of resignation or discharge.
 93-1123. Payments upon death.
 93-1124. Payments in case of death from natural cause.
 93-1125. Monthly payments of retirement allowances.
 93-1126. Exemption from taxes and execution.
 93-1127. Nomination of beneficiary.
 93-1128. Service in the armed forces of the United States.
 93-1129. Fraud—correction of errors.
 93-1130. Call of retired judge for duty.
 93-1131. Optional retirement allowance.
 93-1132. Transfer of dormant accounts to pension accumulation fund.

93-1101. (8877) Subsequent applications for orders refused, etc.**References**

Weinheimer v. Scott, 143 M 243, 385 P 2d 790.

93-1102. (8878) Violations of preceding section.**Frivolous Appeal**

Where attorney specified as error in his appellate brief in a second action, the same point raised in his complaint in a previous action involving the

same parties, the appeal was frivolous and damages were assessed in favor of the respondents. Weinheimer v. Scott, 143 M 243, 385 P 2d 790.

93-1107. Judges' retirement system—definitions. The following words and phrases as used in this act, unless a different meaning is plainly implied by the context, shall have the following meanings:

"Accumulated deductions"—the total of the amounts deducted from the salary of a contributor and paid into the fund, and standing to his credit in the fund, together with the regular interest thereon.

"Beneficiary"—shall be such person or persons having an insurable interest in his life as he shall nominate by written designation, duly acknowledged and filed with the board.

"Retired judge"—any person in receipt of a retirement allowance under this act.

"Board"—the Montana judges' retirement board.

"Penalty retirement age"—seventy (70) years of age.

"Contributor"—any person who has accumulated deductions in the fund standing to his credit.

"Final salary"—the annual salary for the office retired from as of the date of retirement.

"Actuarial equivalent"—the accumulated contributions and the present value of the member's state service based on length of service and member's attained age used to provide a life or temporary life income to the legally designated person, based on such person's attained age and sex at the time the option becomes available.

"Fund"—the Montana judges' retirement fund.

"Involuntary retirement" a retirement not for cause and before retirement age.

"Member's annuity"—payments for life derived from contributions made by the contributor.

"Retirement allowance"—the state annuity plus the member's annuity.

"State annuity"—payments for life derived from contributions made by the state of Montana.

93-1108. Montana judges' retirement system. A retirement system is hereby established for the judges of the district court and justices of the supreme court of the state of Montana.

93-1109. Montana judges' retirement board. There is hereby created a Montana judges' retirement board, hereinafter referred to as the "board." The board shall consist of five (5) members who shall be the same persons as those who compose the board of administration of the public employees' retirement system.

93-1110. Administrative expenses. The expense of the administration of this act, exclusive of the payment of retirement allowances and other benefits, shall be paid by the state of Montana, by appropriation out of the general fund, made on the basis of budgets submitted by the board.

93-1111. Payments into the Montana judges' retirement fund—investment. All appropriations made by the state of Montana, all contributions by members of the Montana judges, in the amount hereinafter specified, and all interest on and increase of the investments and moneys under this account shall be paid to the secretary of the public employees' retirement system board (PERS), who shall credit said payments to the Montana judges' retirement fund. Said funds may be co-mingled with funds of the PERS, but shall be earmarked as judges' retirement fund.

93-1112. Rules and regulations—actuarial data. The board may establish such rules and regulations as it deems necessary and is charged within the limitations of this act for its proper administration, operation, and enforcement, and shall be the authority under this act for its proper administration, operation, and enforcement, and shall be the authority